

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TRUSTEES OF THE UNIVERSITY OF)
PENNSYLVANIA,)

Plaintiff,)

v.)

Civil Action No. 2:15-cv-06133-WB

ELI LILLY AND COMPANY,)

IMCLONE LLC and)

BRISTOL MYERS SQUIBB COMPANY,)

Defendants.)

**PLAINTIFF THE TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA'S
ANSWER TO DEFENDANTS' COUNTERCLAIMS**

Plaintiff/Counterclaim-Defendant The Trustees of the University of Pennsylvania ("Penn") by and through its attorneys, hereby submit its Answer to Defendants Eli Lilly and Company, ImClone LLC, and Bristol Myers Squibb Company's (collectively, "Defendants") Answer and Counterclaims ("Counterclaims"). To the extent not specifically admitted herein, the allegations of the Counterclaims are denied.

PARTIES

1. On information and belief, Plaintiff admits the allegations of Paragraph 1.
2. On information and belief, Plaintiff admits the allegations of Paragraph 2.
3. On information and belief, Plaintiff admits the allegations of Paragraph 3.
4. Plaintiff denies the allegations of Paragraph 4. Plaintiff is a Pennsylvania non-profit corporation having a principal place of business at 3451 Walnut Street, Philadelphia, Pennsylvania 19104.

JURISDICTION AND VENUE

5. The allegations contained in Paragraph 5 are legal conclusions as to which no response is required. To the extent a response is required, Plaintiff does not contest that this Court has subject matter jurisdiction, for this action only, pursuant to 28 U.S.C. §§ 2201, 2202, 1331, and 1338(a) but denies that there is any factual or legal basis for Defendants' action for declaratory judgment of non-infringement and invalidity of U.S. Patent No. 7,625,558 ("the '558 Patent") under the United States Patent Act §§ 1 et seq.

6. The allegations contained in Paragraph 6 are legal conclusions as to which no response is required. To the extent a response is required, Plaintiff admits that it is subject to personal jurisdiction in this District for this action.

7. The allegations contained in Paragraph 7 are legal conclusions as to which no response is required. To the extent a response is required, Plaintiff does not contest that venue is proper in this District for this action.

BACKGROUND FACTS

8. Plaintiff admits the allegations of Paragraph 8.

9. Plaintiff admits the allegations of Paragraph 9.

10. Plaintiff admits the allegations of Paragraph 10.

11. The allegations contained in Paragraph 11 are legal conclusions as to which no response is required. To the extent a response is required, Plaintiff admits that Defendants purport to state an action for declaratory judgment, but deny that there is any factual or legal basis for Defendants' claims.

12. The allegations contained in Paragraph 12 are legal conclusions as to which no response is required. To the extent a response is required, Plaintiff admits that Defendants

purport to state an action for declaratory judgment, but deny that there is any factual or legal basis for Defendants' claims.

COUNT 1: DECLARATORY JUDGMENT OF NON-INFRINGEMENT

13. Plaintiff repeats and incorporates by reference Paragraphs 1 through 12 of this answer as though fully set forth herein.

14. Plaintiff denies the allegations of Paragraph 14.

15. Plaintiff denies the allegations of Paragraph 15.

16. Plaintiff denies the allegations of Paragraph 16.

COUNT II: DECLARATORY JUDGMENT OF INVALIDITY

17. Plaintiff repeats and incorporates by reference Paragraphs 1 through 16 of this answer as though fully set forth herein.

18. Plaintiff denies the allegations of Paragraph 18.

19. Plaintiff denies the allegations of Paragraph 19.

20. Plaintiff denies the allegations of Paragraph 20.

PRAYER FOR RELIEF

The "Prayer for Relief" section sets forth legal conclusions and prayers for relief as to which no response is required. To the extent this section may be deemed to allege any facts or factual or legal entitlements to the requested relief, Plaintiff denies each and every allegation. Further, Plaintiff denies that Defendants are entitled to any of the requested relief, either as prayed or otherwise.

DEMAND FOR JURY TRIAL

The “Demand for Jury Trial” section sets forth legal conclusions as to which no response is required. To the extent this section may be deemed to allege any facts or factual or legal entitlements to the requested jury trial, Plaintiff denies each and every allegation.

AFFIRMATIVE DEFENSES

In response to Defendants’ counterclaims, Plaintiff asserts the following affirmative and other defenses. In asserting these defenses, Plaintiff does not assume the burden of proof with respect to any issue upon which applicable law places the burden of proof upon Defendants.

First Affirmative Defense

Defendants’ counterclaims, in whole or in part, fail to state claims upon which relief can be granted.

Dated: February 8, 2016

Respectfully submitted,

OF COUNSEL:

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served on counsel for Defendants Eli Lilly and Company, ImClone LLC and Bristol Myers Squibb Company by email.

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